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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,436	04/10/2001	Colin I'Anson	1509-154	8765

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FORT COLLINS, CO 80527-2400

EXAMINER

RHODE JR, ROBERT E

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/829,436

Applicant(s)

I'ANSON ET AL.

Examiner

Rob Rhode

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 5, 7, 11, 12, 14 - 16, 21, 22, 29, 30 and 42 - 45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 5, 7, 11, 12, 14 - 16, 21, 22, 29, 30 and 42 - 45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant amendment of 2-1-05 amended claims 1, 5, 7, 12, and 14 and canceled claims 6, 8 – 10, 13, 17 – 20, 23 – 28 and 31 – 34 as well as added new claims 42 - 45. In addition, applicant traversed rejections of Claims 1, 2, 4, 5, 7, 11, 12, 14 – 16, 21, 22, 29 and 30.

Currently, claims 1 – 5, 7, 11, 12, 14 – 16, 21, 22, 29, 30 and 42 – 45 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4, 5, 7, 11, 12, 14 – 16, 21, 22, 29 and 30 are rejected under 35 U.S.C. 102(e) as being unpatentable over Treyz (US 6,587,835 B1)

Regarding claim 1 and related claim 21 (currently amended), Treyz teaches a shopping assistance service method, comprising the steps of:

(a) capturing information about an item of interest at a business premises where the item is being offered; by a user using a mobile device and sending the information, at the time of capture, to a service system over at least a mobile radio infrastructure (see at least Abstract, Col 1, lines 6 – 9 and lines 41 - 44, Col 11, lines 31 – 34 and lines 45 – 48, Col 12, lines 56 – 57, Col 13, lines 39 – 44 and Col 30, lines 3 – 7 as well as Figures 1, 2, 16, 21 and 26);

(b) at the service system: receiving the information at the service system, determining a location associated with the information, and processing the information to identify at least the type of item of interest (see at least Col 1, lines 41 – 44, Col 2, lines 24 – 26 and 52 – 56, Col 3, lines 32 – 33 and 16 - 24, Col 10, lines 16 – 19, Col 28, lines 40 – 43 and Figures 1, 2 and 73); and

(c) delivering, to said user, at least one of comparative-pricing and availability data for items of the type identified in step (b) for other business premises relative to said location, said data being categorized into zones of different physical accessibility of the business premises concerned from said location, the delivering step being over a communication link at the service system and including a mobile infrastructure (see at least Col 11, lines 44 – 49, Col 21, lines 25 – 35, Col 22, lines 55 – 64, Col 24, lines 13 – 15, Col 39, lines 50 - 63 and Figures 26 - 28, 42, 45, 72 and 96).

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Regarding claim 2, Treyz teaches a method, wherein said location is that of the business premises where the item is being offered (Figure 28).

Regarding claim 4, Treyz teaches a method, wherein said location is a predetermined location specified by the party responsible for sending the information to the service system in a user profile held by the service system (see at least Figure 19, 20 and 38 - 39)). Please note that Treyz does not specifically refer to profile. However, Treyz does disclose service providers and associated customer account. Therefore, one of ordinary skill in the art would have been motivated to extend Treyz with a user profile (i.e. account) in order ensure the party is in the correct location as well as to ensure they have the correct information associated with the location. Further, a user profile was well known at the time of the applicant's invention, which is stored information pertaining to the preferences of a party/user. Please see US 6,542,812, which discloses user profiles and thereby addresses and supports the motivation for one of ordinary skill to extend Treyz with user profiles.

Regarding claim 5, Treyz teaches a method, wherein step (b) includes determining multiple locations associated with said information, one of said locations being that of the business premises where the item is being offered and another said location being a predetermined location specified by to the said user either in a user profile held by the service system or in said information; and step (c) includes determining, at least one of comparative-pricing and availability data for items of said identified type from business

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premises categorized into respective sets of zones of different physical accessibility for each of said location (Figures 26 - 28, 42, 45, 72 and 96). To address the applicant's concern's regarding where the location is describe in these Figures, Figure 28 discloses to one of ordinary skill that Sears, which is in Boston, MA. and Circuit City, which is across the river from Boston and is located in Cambridge, MA and thereby each have a different physical accessibility. Moreover, these locations are and depending on the individual desires and physical conditioning either drivable or walkable. Furthermore, Figure 42 would disclose and teach one of ordinary skill that the Figure is depicting a walkable distance from the current and indicated "You are here" location with a walkable path clearly designated to Payless.

Regarding claim 7 and related claims 22 and 30, Treyz teaches a method, wherein said zones comprise at least two from the following: a convenient walking zone around said location; and a convenient driving zone around said location (Figures 28, 42 and 45). With regard to the applicant's arguments, please see above response for claim 5

Regarding claim 11, Treyz teaches a method, wherein the processing of said information in step (b) includes one or more of the following operations: extracting data from specific data fields; analyzing image data included in said information using OCR techniques; matching image data included in said information against stored image data; interpreting bar code image data included in said information (Col 2, lines 38 – 39); and applying speech recognition to recorded audio data included in said

information. Please note that applicant has only asserted/alleged that this claim is patentable and thereby has not provided any arguments of note.

Regarding claim 12, Treyz teaches a method, wherein a specific task comprising one of delivering comparative-pricing data and delivering availability data is selected by the party responsible for sending the information in step (a), the selected task being explicitly specified in said information sent to the service system (Figures 19, 23, 27 and 28). Please note and as argued by applicant in the previous set of claims, these did not contain language such as "delivering comparative-pricing data" originally. However, Figures 27 and 28 disclose, "delivering comparative-pricing data".

Regarding claim 14 (currently amended), Treyz teaches a method, wherein said output is made available, said user in one or more of the following ways: by return over a data channel used to the send the information to the service system in step (a); by electronic mail to a electronic mail address specified in said information or in a user available to profile held by the service system in respect of said party (Figure 7); by print out and mailing of the print out to a physical mail address specified in said information or in a user profile held by the service system in respect of said party; and by making said output available at a web site accessible by said party. Please note that applicant has only asserted/alleged that this claim is patentable and thereby has not provided any arguments of note.

Regarding claim 15, Treyz teaches a method, wherein said item of interest is a product on offer for sale or hire (Figures 26 – 28).

Regarding claim 16, the recitation that “wherein said item of interest is a service”, such recitation is given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from the other “sale or hire” already disclosed by Treyz. Further, online methods and systems providing product or service that a kind/type including such specifics as “service” is given little patentable weight. The phrase(s) and or word(s) are given little patentable weight because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant’s invention from Treyz. Thereby, the non-fictional descriptive material is directed only to the content of the information (service – which could also be product) and therefore does not affect either the structure or method/process of Treyz, which leaves the method and system unchanged.

Regarding claim 29, Treyz teaches a system, wherein said information further includes an indication of at least one further location specified by said user, the processing subsystem being arranged to identify said at least one further location and the task subsystem being arranged to determine at least one of comparative-pricing and availability data for items of said identified type from business premises categorized into respective sets of zones of different physical accessibility centered from said location

(Figures 2, 26, 27, 28, 42 and 45). Please note that applicant has only asserted/alleged that this claim is patentable and thereby has not provided any arguments of note.

Regarding claim 30, Treyz teaches a system, wherein said zones comprise: a convenient walking zone around said location; and a convenient driving zone around said location (Figures 28 and 39 – 42).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz in view of Semple (US 6,408,307 B1).

Treyz substantially disclose the applicant's invention.

While Treyz does disclose a shopping assistance service with location, the reference does not specifically disclose a shopping assistance service, wherein said location is determined in one of the following ways: by extraction from said information as specific data included by the sender; by request to a location server of a mobile radio

infrastructure through which said information has been sent to the service system from a mobile entity; by reference to a database relating business identity to location, said information including the identity of the business where the item is on offer; by processing of image data included in said information.

In the same area of providing a shopping assistance service with location and regarding claim 3, Semple teaches a method and system, wherein said location is determined in one of the following ways: by extraction from said information as specific data included by the sender; by request to a location server of a mobile radio infrastructure through which said information has been sent to the service system from a mobile entity; by reference to a database relating business identity to location, said information including the identity of the business where the item is on offer (Abstract and Figures 1 and 12); by processing of image data included in said information.

It would have been obvious to have provided the method and system of Treyz with the method and system of Semple to have enabled a method, wherein said location is determined in one of the following ways: - by extraction from said information as specific data included by the sender; - by request to a location server of a mobile radio infrastructure through which said information has been sent to the service system from a mobile entity; by reference to a database relating business identity to location, said information including the identity of the business where the item is on offer; by processing of image data included in said information – in order to provide the recipient

with the premises that are close to their location. Treyz discloses Treyz discloses and teaches claim one and twenty one limitations as amended and addressed above. In turn, Semple in the same area of shopping assistance service disclose a method wherein said location is determined in one of the following ways: by extraction from said information as specific data included by the sender; by request to a location server of a mobile radio infrastructure through which said information has been sent to the service system from a mobile entity; by reference to a database relating business identity to location, said information including the identity of the business where the item is on offer; by processing of image data included in said information (Abstract and Figure 1). Therefore, one of ordinary skill in the art would have been motivated to extend the method and system of Treyz with the method and system for a shopping assistant service, wherein said location is determined in one of the following ways: by extraction from said information as specific data included by the sender; by request to a location server of a mobile radio infrastructure through which said information has been sent to the service system from a mobile entity; by reference to a database relating business identity to location, said information including the identity of the business where the item is on offer; by processing of image data included in said information. In this manner, the shopper will be able to locate appropriate stores in reasonable distant from their current location and thereby save them time as well money. Thereby too, the probability will be increased that the shopper will return in the future for additional selections of products or services as well as recommending the site/service to others as result of the easing of

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the shoppers burden to locate appropriate and local stores that have the item of interest.

Claims 42 – 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz in view of Obradovich (US 6,542,812 B1).

Treyz discloses and teaches substantially the applicant's invention.

While Treyz does disclose a user account and shopping assistance service with location information, the reference does not specifically disclose and teach a method and system wherein a zone distance is input with respect to an item of interest and wherein a zone distance is stored in a user profile.

In a related area of a shopping assistance service with location information and regarding claim 42 and related claim 44, Obradovich teaches a method and system wherein a zone distance is input with respect to an item of interest (see at least Abstract and Figures 11 and 12).

Regarding claim 43 and related claim 45, Obradovich teaches a method and system wherein a zone distance is stored in a user profile (see at least Abstract and Figure 8).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have provided the method and system of Treyz with a method and system of Obradovich to have enabled a method and system wherein a zone distance is input with respect to an item of interest and wherein a zone distance is stored in a user profile – in order to have for the user information on items of interest and distances. Treyz discloses and teaches claim one and twenty one limitations as amended and addressed above. In turn, Obradovich discloses a method and system wherein a zone distance is input with respect to an item of interest and wherein a zone distance is stored in a user profile (Abstract, Col 1, lines 55 – 64 and Figure 11).

Therefore, one of ordinary skill in the art would have been motivated to extend the method and system of Treyz with a method and system wherein a zone distance is input with respect to an item of interest and wherein a zone distance is stored in a user profile. In this regard, the user will have knowledge and location of items of interest, which will ease their burden of having to figure this out each time they make a trip for shopping. Thereby, the user will save time and money too by using less gas because of a reduction in aimless driving around to locate items of interest.

Response to Arguments

Applicant's arguments with respect to claim 1 that Treyz does not disclose a method for "categorizing into zones of different physical accessibility".

First and in a reasonably broad interpretation of the phrase "categorizing into zones of different physical accessibility", Treyz does disclose and would teach one of ordinary skill of categorizing into zones of different physical accessibility. For example,

zones of physical accessibility could include special access for handicapped or zones of physical accessibility such as different physical locations of stores carrying the item of interest as taught by Treyz (Figure 28 and Figure 42).

Applicant arguments with respect to claims 2, 4, 5, 7, 12, 14 – 15, 16 and 29 are addressed above.

Applicant argues with respect to claim 3 that all their arguments from claim 1 apply.

In that regard, the above response applies as well.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rob Rhode whose telephone number is (703) 305-8230. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (703) 308-1344.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

(703) 872-9306 [Official communications; including
After Final communications labeled
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(703) 746-7418 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

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After Final communications labeled

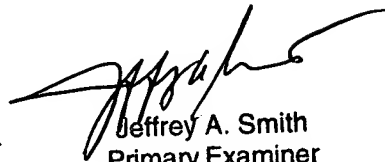
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(703) 746-7418 [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.

RER



Jeffrey A. Smith
Primary Examiner